



DEPARTMENT OF COMMERCE

International Trade Administration

[A-533-901]

Organic Soybean Meal from India: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that organic soybean meal from India is being, or is likely to be, sold in the United States at less than fair value (LTFV). The period of investigation (POI) is January 1, 2020, through December 31, 2020. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Andrew Huston, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-4261.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation on April 27, 2021.¹ On August 18, 2021, Commerce postponed the preliminary determination of this investigation and the revised deadline is now October 27, 2021.² For a complete description of the events that followed the initiation of this investigation, *see the*

¹ See *Organic Soybean Meal from India: Initiation of Less-Than-Fair-Value Investigation*, 86 FR 22146 (April 27, 2021) (*Initiation Notice*).

² See *Organic Soybean Meal from India: Postponement of Preliminary Determinations in the Less-Than-Fair-Value Investigation*, 86 FR 46181 (August 18, 2021).

Preliminary Decision Memorandum.³ A list of topics included in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Scope of the Investigation

The product covered by this investigation is organic soybean meal from India. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

In accordance with the preamble to Commerce's regulations,⁴ the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.*, scope).⁵ No interested party commented on the scope of the investigation as it appeared in the *Initiation Notice*. Commerce is preliminarily modifying the scope language as it appeared in the *Initiation Notice*.⁶ *See* the revised scope in Appendix I to this notice.

Methodology

Commerce is conducting this investigation in accordance with section 731 of the Act. Commerce has calculated export prices in accordance with section 772(a) of the Act. Normal value (NV) is calculated in accordance with section 773 of the Act. In addition, Commerce has relied on facts available with an adverse inference (AFA) under sections 776(a) and (b) of the Act for Shanti Worldwide, Shri Sumati Oil Industries Pvt. Ltd., Navjyot International Pvt. Ltd., Ish Agritech Pvt. Ltd., Satguru Organics Pvt. Ltd., Radiance Overseas, Swastik Enterprises, Soni

³ *See* Memorandum, "Organic Soybean Meal from India: Decision Memorandum for the Preliminary Affirmative Determination of Sales at Less Than Fair Value," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

⁴ *See Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27323 (May 19, 1997).

⁵ *See Initiation Notice*.

⁶ *See* Preliminary Decision Memorandum at Scope Comments.

Soya Products Limited, Raj Foods International, Vantage Organic Foods Pvt. Ltd., Shree Bhagwati Oil Mill, and Pragati Organics (collectively non-responsive companies). For a full description of the methodology underlying the preliminary determination, *see* the Preliminary Decision Memorandum.

All-Others Rate

Sections 733(d)(1)(ii) and 735(c)(5)(A) of the Act provide that in the preliminary determination Commerce shall determine an estimated all-others rate for all exporters and producers not individually examined. This rate shall normally be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely under section 776 of the Act.

In this investigation, Commerce preliminarily assigned a rate based entirely on facts available to the non-responsive companies. Therefore, the only rate that is not zero, *de minimis* or based entirely on facts otherwise available is the rate calculated for Bergwerff Organic India Private Limited (Bergwerff). Consequently, the rate calculated for Bergwerff is also assigned as the rate for all other producers and exporters.

Preliminary Determination

Commerce preliminarily determines that the following estimated weighted-average dumping margins exist:

Exporter/Producer	Estimated Weighted Average Dumping Margin	Cash Deposit Rate (Adjusted for Subsidy Offset(s))
Bergwerff Organic Private Limited/Suminter India Organic Private Limited	3.11%	0.00%
Shanti Worldwide	18.85%*	11.83%
Shri Sumati Oil Industries Pvt. Ltd.	18.85%*	11.83%
Navjyot International Pvt. Ltd.	18.85%*	11.83%
Ish Agritech Pvt. Ltd.	18.85%*	11.83%
Satguru Organics Pvt. Ltd.	18.85%*	11.83%
Radiance Overseas	18.85%*	11.83%
Swastik Enterprises	18.85%*	11.83%

Soni Soya Products Limited	18.85%*	11.83%
Raj Foods International	18.85%*	11.83%
Vantage Organic Foods Pvt. Ltd.	18.85%*	11.83%
Shree Bhagwati Oil Mill	18.85%*	11.83%
Pragati Organics	18.85%*	11.83%
All Others	3.11%	0.00%

* (AFA)

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise, as described in Appendix I, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the *Federal Register*. Further, pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the estimated weighted-average dumping margin or the estimated all-others rate, as follows: (1) the cash deposit rate for the respondents listed above will be equal to the company-specific estimated weighted-average dumping margins determined in this preliminary determination; (2) if the exporter is not a respondent identified above, but the producer is, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margin established for that producer of the subject merchandise; and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin.

Commerce normally adjusts cash deposits for estimated antidumping duties by the amount of export subsidies countervailed in a companion countervailing duty (CVD) proceeding when CVD provisional measures are in effect. Accordingly, where Commerce preliminarily made an affirmative determination for countervailable export subsidies, Commerce has offset the estimated weighted-average dumping margin by the appropriate CVD rate(s).⁷ Any such adjusted cash deposit rate may be found in the “Preliminary Determination” section above.⁸

⁷ See, e.g., *Polyester Textured Yarn from India: Preliminary Affirmative Determination of Sales at Less Than Fair Value and Postponement of Final Determination and Extension of Provisional Measures*, 84 FR 31301 (July 1, 2019), unchanged in *Polyester Textured Yarn from India: Final Determination of Sales at Less Than Fair Value*, 84 FR 63843 (November 19, 2019).

⁸ See Preliminary Decision Memorandum for further discussion.

Should provisional measures in the companion CVD investigation expire prior to the expiration of provisional measures in this LTFV investigation, Commerce will direct CBP to begin collecting estimated antidumping duty cash deposits unadjusted for countervailed export subsidies at the time that the provisional CVD measures expire. These suspension of liquidation instructions will remain in effect until further notice.

Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties in this preliminary determination within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Verification

As provided in section 782(i)(1) of the Act, Commerce intends to verify the information relied upon in making its final determination. Normally, Commerce verifies information using standard procedures, including an on-site examination of original accounting, financial, and sales documentation. However, due to current travel restrictions in response to the global COVID-19 pandemic, Commerce is unable to conduct on-site verification in this investigation.

Accordingly, we intend to verify the information relied upon in making the final determination through alternative means in lieu of an on-site verification.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance. A timeline for the submission of case briefs and written comments will be notified to interested parties at a later date. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than seven days after the deadline date for case briefs.⁹ Note that Commerce has temporarily modified certain of its requirements for serving documents

⁹ See 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements).

containing business proprietary information, until further notice.¹⁰ Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. Section 351.210(e)(2) of Commerce's regulations requires that a request by exporters for postponement of the final determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.

On October 11, 2021, pursuant to 19 CFR 351.210(e), Bergwerff requested that Commerce postpone the final determination and that provisional measures be extended to a

¹⁰ See *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19*, 85 FR 17006 (March 26, 2020) (*Temporary Rule*); and *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19; Extension of Effective Period*, 85 FR 41363 (July 10, 2020).

period not to exceed six months.¹¹ In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because: (1) the preliminary determination is affirmative; (2) the requesting exporter accounts for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, Commerce is postponing the final determination and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, Commerce will make its final determination no later than 135 days after the date of publication of this preliminary determination.

International Trade Commission Notification

In accordance with section 733(f) of the Act, Commerce will notify the International Trade Commission (ITC) of its preliminary determination. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

Notification to Interested Parties

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act, and 19 CFR 351.205(c).

Dated: October 27, 2021.

Ryan Majerus
Deputy Assistant Secretary
for Policy and Negotiations,
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance

¹¹ See Bergwerff's Letter, "Organic Soybean Meal from India: Request for Postponement of the Final Determination," dated October 11, 2021.

Appendix I

Scope of the Investigation

The merchandise subject to the investigation is certified organic soybean meal. Certified organic soybean meal results from the mechanical pressing of certified organic soybeans into ground products known as soybean cake, soybean chips, or soybean flakes, with or without oil residues. Soybean cake is the product after the extraction of part of the oil from soybeans. Soybean chips and soybean flakes are produced by cracking, heating, and flaking soybeans and reducing the oil content of the conditioned product. “Certified organic soybean meal” is certified by the U.S. Department of Agriculture (USDA) National Organic Program (NOP) or equivalently certified to NOP standards or NOP-equivalent standards under an existing organic equivalency or recognition agreement.

Certified organic soybean meal subject to this investigation has a protein content of 34 percent or higher.

Organic soybean meal that is otherwise subject to this investigation is included when incorporated in admixtures, including but not limited to prepared animal feeds. Only the organic soybean meal component of such admixture is covered by the scope of this investigation. The products covered by this investigation are currently classified under the following Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 1208.10.0010 and 2304.00.0000. Certified organic soybean meal may also enter under HTSUS 2309.90.1005, 2309.90.1015, 2309.90.1020, 2309.90.1030, 2309.90.1032, 2309.90.1035, 2309.90.1045, 2309.90.1050, and 2308.00.9890.

The HTSUS subheadings and specifications are provided for convenience and customs purposes; the written description of the scope is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Period of Investigation
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- VI. Postponement of Final Determination
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- XV. Adjustment to Cash Deposit Rates for Export Subsidies in Companion CVD Investigation
- XVI. Recommendation

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